

Gina Sparks (“Sparks Decl.”), ¶ 3; *see also* Exhibit 1, Complaint.) On January 4, 2016, Aetna received the Complaint. (Sparks Decl. ¶ 3.)

In compliance with 28 U.S.C. §1446(b), Defendant files this Notice of Removal with this Court within thirty (30) days after receipt of a copy of the initial pleadings from state court and from first learning of the existence of the lawsuit. Hence, this Notice of Removal is timely.

II. FEDERAL QUESTION JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1441 over matters arising under the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001, *et seq.* (“ERISA”).

Freddie Mac established a self-funded health care expense reimbursement plan (the “Plan”) which was administered by Aetna. (Sparks Decl., ¶ 5.) From February 1, 2011 through August 1, 2013, Plaintiff was an eligible participant in the Plan offered by Freddie Mac. (Sparks Decl., ¶ 5.) The Plan is subject to and governed by ERISA. (*See* Redacted Administrative Services Agreement attached hereto and marked as Exhibit 2 at p. 1.)

This suit arises from a claim by Plaintiff for violation of ERISA as a result of Aetna’s denial of her claims for reimbursement for health care expenses under the Plan governed by ERISA. (*See* Exhibit 1, Complaint.)

Pursuant to section 1132(a)(1)(B) “[a] civil action may be brought – (1) by a participant or beneficiary – . . . (B) to recover benefits due to him under the terms of his plan, to enforce his rights under the terms of the plan, or to clarify his rights to future benefits under the terms of the plan.” 29 U.S.C. §1132(a)(1)(B). This action arises under ERISA in that Plaintiff seeks to determine whether Aetna violated ERISA in denying her claim for reimbursement under the Plan. (*See* Exhibit 1, Complaint.)

ERISA governs health care expense reimbursement plans offered as part of employee benefit plans, such as the Plan in which Plaintiff is a participant. 29

1 U.S.C. § 1003(a)(1). *Metropolitan Life Ins. Co. v. Taylor*, 481 U.S. 58, 66 (1987).
 2 Likewise, the enforcement of rights under the plan is subject to and governed by
 3 ERISA. 29 U.S.C. § 1132(e)(1); *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41
 4 (1987). Hence, ERISA preempts all of Plaintiff's purported state-law claims in her
 5 Complaint. Removal of such cases to federal court is proper because the claims
 6 arise under federal law. *Metropolitan Life Ins. Co. v. Taylor*, 481 U.S. 58 (1987);
 7 *see also, Stuart v. Unum*, 217 F.3d 1145 (9th Cir. 2000).

8 **III. PROCESS**

9 The Complaint, attached hereto and marked as Exhibit 1, is the only
 10 documents which has been filed in the State Court action. This Notice of Removal
 11 is being filed without prejudice to Aetna's objections and defenses. Written notice
 12 of the filing of this Notice of Removal will be given to all adverse parties and a
 13 copy will be filed with the Clerk of the Circuit Court of the State of Oregon for the
 14 County of Multnomah Small Claims Department, in accordance with the
 15 provisions of 28 U.S.C. § 1446(d).

16 **IV. VENUE**

17 Venue of this case is proper in the District of Oregon Portland Division,
 18 pursuant to 28 U.S.C. Section 1441(a), which states, in part, "...any civil action
 19 ... may be removed ... to the district court of the United States for the district
 20 and division embracing the place where such action is pending." The Circuit
 21 Court of the State of Oregon for the County of Multnomah Small Claims
 22 Department is within the jurisdiction of the United States District Court, District
 23 of Oregon, Portland Division.

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WHEREFORE, Aetna prays that the above action pending in the Circuit Court of the State of Oregon for the County of Multnomah Small Claims Department be removed from that court to this Court.

Dated: January 19, 2016

GORDON & REES LLP

By: /s/Sarah N. Turner
Sarah N. Turner
Attorney for Defendant
AETNA LIFE INSURANCE
COMPANY (erroneously sued as
AETNA)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing document was electronically filed with the U.S. District Court on **January 19, 2016**. The foregoing document was served on the below via Federal Express on January 19, 2016:

Miroslav Soich
Plaintiff
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Portland, OR 97206

/s/Jeanne Perrin
Jeanne Perrin, Legal Assistant

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